

REMARKS

I. Status of the Application

Claims 1-23, 25-33, 37, 45-51, 55, 56 and 73-78 are pending in the application. Claims 1-23, 25-33, 37, 45-50, 55, and 56 have been withdrawn. Claims 24, 34-36, 38-44, 52-54, and 57-72 have been canceled. Claim 51 has been amended to recite the step of mounting a ball on a coupling element fastened on the supporting element remote from the pin, whereby the pin, the coupling element and the ball being such that the center of the ball is in a direct line with the longitudinal axis of the pin. Support for the amendment is found at page 13 lines 18-25. Claims 74-78 have been amended to recite a method as they did when originally filed with no objection from the Examiner. Applicants respectfully request reconsideration of the application in view of the foregoing amendments and following remarks.

II. Claims 51 and 73-78 are Nonobvious in View of Masini

Claims 51 and 73-78 stand rejected under 35 U.S.C. § 103(a) as being unpatentable in view of U.S. Patent No. 5,571,203 to Masini ("Masini"). Applicant respectfully traverses the rejection in view of the amended claims now presented.

Claim 51 has been amended to recite the step of mounting a ball on a coupling element fastened on the supporting element remote from the pin, whereby the pin, the coupling element and the ball being such that the center of the ball is in a direct line with the longitudinal axis of the pin.

Masini does not disclose or make obvious a method including the step of mounting a ball on a coupling element fastened on the supporting element remote from the pin, whereby the pin, the coupling element and the ball being such that the center of the ball is in a direct line with the longitudinal axis of the pin. The advantage of such an arrangement explained at page 13 lines 23-25 of the specification is that occurring forces and moments are reduced. In addition, a lesser amount of bone has to be removed to accommodate the claimed fastening element as opposed to the fastening element of Masini.

In each embodiment depicted in Masini, the longitudinal axis of the pin does not extend through the center of the ball. In fact, the longitudinal axis of the pin is at a substantial angle to the center of the ball, thereby increasing forces and moments within the fastening device and the bone, which disadvantageously leads to unwanted stresses and weakening. Accordingly, the

office action does not present a prima facie case of obviousness as to the amended claims now presented. The rejection should be withdrawn.

III. Conclusion

Reconsideration and allowance of all the pending claims is respectfully requested. If a telephone conversation with Applicant's attorney would expedite prosecution of the above-identified application, the Examiner is urged to call the undersigned at (617) 720-9600.

The Commissioner is hereby authorized to charge any additional fees or credit any overpayment to Deposit Account No. 19-0733.

Respectfully submitted,

Dated: February 26, 2009

By:

A handwritten signature in black ink, appearing to read 'John P. Iwanicki', written over a horizontal line.

John P. Iwanicki, Reg. No. 34,628
BANNER & WITCOFF, LTD.
28 State Street, 28th Floor
Boston, MA 02109
(617) 720-9600